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# HOUSE BILL No. 1390

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-2.5; IC 8-14-2-4.

**Synopsis:** Distribution of sales tax on gasoline and fuels. Requires the department of state revenue to determine for each calendar quarter the amount, if any, to be transferred from the state gross retail and use tax on gasoline and special fuel to the state highway fund and the local road and street account. Provides for the amount of the transfer to be based on a percentage of the difference, if any, between: (1) the most recent statewide average retail price per gallon of gasoline and special fuel; and (2) \$2.50 per gallon of gasoline and special fuel. Provides for 50% of the amount to be transferred to the state highway fund and 50% of the amount to be transferred to the local road and street account for distribution to counties, cities, and towns. Requires the auditor of state to make the first transfer before August 1, 2009.

**Effective:** Upon passage; July 1, 2009.

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**Davis**

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January 13, 2009, read first time and referred to Committee on Roads and Transportation.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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# HOUSE BILL No. 1390



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-2.5-7-14.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2009]: **Sec. 14.5. Before January 10, April 10,**  
4 **July 10, and October 10** of each year, the department shall  
5 **determine as of the end of the preceding calendar quarter the**  
6 **statewide average retail price per gallon of:**

- 7 (1) gasoline; and
- 8 (2) each type of special fuel;
- 9 **subject to state gross retail and use tax, excluding from each price**  
10 **determination the Indiana and federal gasoline taxes or the**  
11 **Indiana and federal special fuel taxes (as appropriate) and the**  
12 **Indiana gross retail and use tax.**

13 SECTION 2. IC 6-2.5-10-1, AS AMENDED BY P.L.146-2008,  
14 SECTION 317, IS AMENDED TO READ AS FOLLOWS  
15 [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The department shall account  
16 for all state gross retail and use taxes that it collects.

17 (b) The department shall deposit those collections in the following



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manner:

(1) Ninety-nine and one hundred seventy-eight thousandths percent (99.178%) of the collections shall be paid into the state general fund.

(2) Sixty-seven hundredths of one percent (0.67%) of the collections shall be paid into the public mass transportation fund established by IC 8-23-3-8.

(3) Twenty-nine thousandths of one percent (0.029%) of the collections shall be deposited into the industrial rail service fund established under IC 8-3-1.7-2.

(4) One hundred twenty-three thousandths of one percent (0.123%) of the collections shall be deposited into the commuter rail service fund established under IC 8-3-1.5-20.5.

**(c) The department shall make a transfer determination under section 6 of this chapter with respect to the amount paid into the state general fund under subsection (b)(1).**

SECTION 3. IC 6-2.5-10-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6. (a) The department shall determine for each calendar quarter an amount that represents the increased part, if any, of the state gross retail and use tax collections on gasoline and special fuel sold during that calendar quarter. The increased part shall be computed separately for gasoline and special fuel as follows:**

**STEP ONE: Determine the greater of zero (0) or the difference between:**

**(A) the most recent statewide average retail price per gallon determined by the department under IC 6-2.5-7; minus**

**(B) two dollars and fifty cents (\$2.50) per gallon.**

**STEP TWO: Multiply the STEP ONE result by the number of gallons sold during the most recent calendar quarter.**

**STEP THREE: Multiply the STEP TWO result by seven percent (7%).**

**(b) The department shall combine the amounts calculated under subsection (a) for gasoline and special fuel and notify the auditor of state of the combined amount before the twentieth day of the month immediately following the end of the calendar quarter.**

**(c) Before the end of the month in which the auditor of state receives a notice from the department under subsection (b), the auditor of state shall transfer from the state general fund:**

**(1) to the state highway fund, fifty percent (50%) of the**

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1           **combined amount determined under subsection (b); and**  
 2           **(2) to the local road and street account established under**  
 3           **IC 8-14-2-4, fifty percent (50%) of the combined amount**  
 4           **determined under subsection (b) for distribution to counties,**  
 5           **cities, and towns as provided in IC 8-14-2-4 to be used only for**  
 6           **the purposes set forth in IC 8-14-2-4.**

7           SECTION 4. IC 8-14-2-4, AS AMENDED BY P.L.182-2007,  
 8           SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9           JULY 1, 2009]: Sec. 4. (a) The auditor of state shall establish a special  
 10           account to be called the "local road and street account" and credit this  
 11           account monthly with forty-five percent (45%) of the money deposited  
 12           in the highway, road and street fund.

13           (b) The auditor shall distribute to units of local government money  
 14           from this account each month. Before making any other distributions  
 15           under this chapter, the auditor shall distribute E85 incentive payments  
 16           to all political subdivisions entitled to a payment under section 8 of this  
 17           chapter.

18           (c) After distributing E85 incentive payments required under section  
 19           8 of this chapter, the auditor of state shall allocate to each county the  
 20           remaining money in this account on the basis of the ratio of each  
 21           county's passenger car registrations to the total passenger car  
 22           registrations of the state. The auditor shall further determine the  
 23           suballocation between the county and the cities **and towns** within the  
 24           county as follows:

25           (1) In counties having a population of more than fifty thousand  
 26           (50,000), sixty percent (60%) of the money shall be distributed on  
 27           the basis of the population of the city or town as a percentage of  
 28           the total population of the county and forty percent (40%)  
 29           distributed on the basis of the ratio of city and town street mileage  
 30           to county road mileage.

31           (2) In counties having a population of fifty thousand (50,000) or  
 32           less, twenty percent (20%) of the money shall be distributed on  
 33           the basis of the population of the city or town as a percentage of  
 34           the total population of the county and eighty percent (80%)  
 35           distributed on the basis of the ratio of city and town street mileage  
 36           to county road mileage.

37           (3) For the purposes of allocating funds as provided in this  
 38           section, towns which become incorporated as a town between the  
 39           effective dates of decennial censuses shall be eligible for  
 40           allocations upon the effectiveness of a corrected population count  
 41           for the town under IC 1-1-3.5.

42           (4) Money allocated under the provisions of this section to

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1 counties containing a consolidated city shall be credited or  
2 allocated to the department of transportation of the consolidated  
3 city.

4 (d) Each month the auditor of state shall inform the department of  
5 the amounts allocated to each unit of local government from the local  
6 road and street account.

7 SECTION 5. [EFFECTIVE UPON PASSAGE] (a) For purposes of  
8 IC 6-2.5-10-6, as added by this act, the department of state revenue  
9 shall:

10 (1) before July 10, 2009, determine the statewide average  
11 price of:

12 (A) gasoline; and

13 (B) each type of special fuel;

14 subject to state gross retail and use tax, as of the end of the  
15 calendar quarter ending June 30, 2009, excluding from each  
16 price determination the Indiana and federal gasoline taxes or  
17 the Indiana and federal special fuel taxes (as appropriate) and  
18 the Indiana gross retail and use tax, as provided in  
19 IC 6-2.5-7-14.5, as added by this act; and

20 (2) before July 20, 2009, determine the amount of the transfer  
21 to the state highway fund and the local road and street  
22 account, if any, under IC 6-2.5-10-6, as added by this act, for  
23 the calendar quarter ending June 30, 2009.

24 (b) The auditor of state shall make the first transfer under  
25 IC 6-2.5-10-6, as added by this act, (which is the transfer for the  
26 calendar quarter ending June 30, 2009) before August 1, 2009.

27 (c) This SECTION expires September 1, 2009.

28 SECTION 6. An emergency is declared for this act.

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